(84)

**HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR**

**SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.**

**WRIT PETITION NO.2176 OF 2004.**

**PETITIONER** : Dharmendra S/o. Vishwanath Sharma, aged about 26 years, R/o. Baram Raod, Village Salka, Tehsil Surajpur District Surguja (CG)

Vs.

**RESPONDENTS**

1. State of Chhattisgarh, through the Secretary, Department of Revenue, Mantralay, D.K.S. Building, Raipur, Tehsil and District Raipur (CG).
2. The Board of Revenue, Chhattisgarh, Through its President, Revenue Board, Bilaspur (CG).
3. Sub Divisional Officer, Surajpur, District Surgjua (CG)
4. Gajendra S/o Rambharos Kushwaha, R/o. Village Salka, Tehsil Surajpur, District Surguja (CG)
5. Smt. Malti Devi, S/o Mahavir R/o. Baram Road, Ambikapur, Tehsil Ambikapur District Surguja (CG)
6. Vishwanath S/o Indra Dev Prasad, resident of Sattipara, Ambikapur District Surguja (CG).

**Present :** Shri Awadh Tripathty, learned counsel for the petitioner.
Shri Utkarsh Verma, learned Dy. G.A. for the State of Chhattisgarh and its authorities.
Shri MPS Bhatia, learned counsel for respondents 5 & 6.

**ORAL ORDER**

(Passed on 13th November, 2006)

This writ petition arises out of mutation proceedings. The petitioner herein on the basis of a will executed in his favour by one Ramprasad sought mutation of entries of the petition schedule land in his name. The authorities of Chhattisgarh Land Revenue Code, 1959, refused to accede to the request of the petitioner by the impugned proceedings on the ground that after remand of the proceedings on an earlier occasion the

petitioner did not choose to examine attesting witnesses in the proceedings and, therefore, no credence could be given to the will on the basis of which mutation was sought, among other grounds.

(2) In the course of hearing, it was brought to the notice of the Court that the petitioner has already instituted a suit for declaration of title and permanent injunction with regard to the same petition schedule land and the same is pending. It is well settled that the mutation entries that may be made by the authorities under the Land Revenue Code are always subject tot the decree that may be passed by a competent civil Court. In other words, the mutation entries made by the statutory authorities are required to be altered, modified or deleted in terms of civil Court decree. Since the petitioner has already instituted a suit for declaration of title with regard to the petition schedule property, there is no need for this Court to entertain this writ petition and undertake adjudication of title dispute. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice
Judge